

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson**

Plaintiff,

v.

**Hoshier S. Sodhi;**  
**Rakks Inc.**, a California  
Corporation;  
**Bulldog Corporation**, a California  
Corporation

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: Americans With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of Hoshier S. Sodhi; Rakks Inc., a California Corporation; Bulldog Corporation, a California Corporation; and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and also has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

2. Defendant Hoshier S. Sodhi owned the real property located at or about

285 S Capitol Ave, San Jose, California, between January 2019 and July 2020.

3. Defendant Hoshier S. Sodhi owned the real property located at or about 299 S Capitol Ave, San Jose, California, between January 2019 and July 2020.

4. Defendant Hoshier S. Sodhi owns the real property located at or about 285 S Capitol Ave, San Jose, California, currently.

5. Defendant Hoshier S. Sodhi owns the real property located at or about 299 S Capitol Ave, San Jose, California, currently.

6. Defendant Bulldog Corporation owned Bulldog Lifestyles located at or about 285 S Capitol Ave, San Jose, California, between January 2019 and July 2020.

7. Defendant Rakks Inc. owned Earl's Liquor located at or about 299 S Capitol Ave, San Jose, California, between January 2019 and July 2020.

8. Defendant Bulldog Corporation owns Bulldog Lifestyles located at or about 285 S Capitol Ave, San Jose, California, currently.

9. Defendant Rakks Inc. owns Earl's Liquor located at or about 299 S Capitol Ave, San Jose, California, currently.

10. Plaintiff does not know the true names of Defendants, their business capacities, their ownership connection to the property and business, or their relative responsibilities in causing the access violations herein complained of, and alleges a joint venture and common enterprise by all such Defendants. Plaintiff is informed and believes that each of the Defendants herein is responsible in some capacity for the events herein alleged, or is a necessary party for obtaining appropriate relief. Plaintiff will seek leave to amend when the true names, capacities, connections, and responsibilities of the Defendants are ascertained.

### **JURISDICTION & VENUE:**

11. The Court has subject matter jurisdiction over the action pursuant to 28

1 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
2 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

3 12. Pursuant to supplemental jurisdiction, an attendant and related cause  
4 of action, arising from the same nucleus of operative facts and arising out of  
5 the same transactions, is also brought under California's Unruh Civil Rights  
6 Act, which act expressly incorporates the Americans with Disabilities Act.

7 13. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
8 founded on the fact that the real property which is the subject of this action is  
9 located in this district and that Plaintiff's cause of action arose in this district.

10  
11 **FACTUAL ALLEGATIONS:**

12 14. Plaintiff went to Bulldog Lifestyles and Earl's Liquor in January 2019,  
13 March 2019, June 2019 and July 2020 with the intention to avail himself of  
14 their goods or services motivated in part to determine if the defendants  
15 comply with the disability access laws.

16 15. Bulldog Lifestyles and Earl's Liquor are facilities open to the public,  
17 places of public accommodation, and business establishments.

18 16. Unfortunately, on the dates of the plaintiff's visits, the defendants failed  
19 to provide wheelchair accessible parking in conformance with the ADA  
20 Standards as it relates to wheelchair users like the plaintiff.

21 17. Bulldog Lifestyles and Earl's Liquor provide parking to its customers but  
22 fail to provide wheelchair accessible parking.

23 18. A few problems that plaintiff encountered was that there was no "NO  
24 PARKING" warning in the access aisle, and there was no ADA signage in front  
25 of the parking space ostensibly reserved for persons with disabilities. As a  
26 result, vehicles without handicap plates or placards parked in the access aisle  
27 during several plaintiff visits.

28 19. Plaintiff believes that there are other features of the parking that likely

1 fail to comply with the ADA Standards and seeks to have fully compliant  
2 parking available for wheelchair users.

3 20. On information and belief the defendants currently fail to provide  
4 wheelchair accessible parking.

5 21. Additionally, on the dates of the plaintiff's visits, the defendants failed  
6 to provide wheelchair accessible sales counters in conformance with the ADA  
7 Standards as it relates to wheelchair users like the plaintiff.

8 22. Bulldog Lifestyles and Earl's Liquor provide sales counters to its  
9 customers but fails to provide wheelchair accessible sales counters.

10 23. A problem that plaintiff encountered was that the sales counters were  
11 too high for wheelchair users.

12 24. Plaintiff believes that there are other features of the sales counters that  
13 likely fail to comply with the ADA Standards and seeks to have fully compliant  
14 sales counters available for wheelchair users.

15 25. On information and belief the defendants currently fail to provide  
16 wheelchair accessible sales counters.

17 26. Moreover, on the dates of the plaintiff's visits, the defendants failed to  
18 provide wheelchair accessible door hardware in conformance with the ADA  
19 Standards as it relates to wheelchair users like the plaintiff.

20 27. Earl's Liquor provides door hardware to its customers but fails to  
21 provide wheelchair accessible door hardware.

22 28. The problem that plaintiff encountered is that the entrance door  
23 hardware had a pull bar style handle that required tight grasping to operate.

24 29. Plaintiff believes that there are other features of the door hardware that  
25 likely fail to comply with the ADA Standards and seeks to have fully compliant  
26 door hardware available for wheelchair users.

27 30. On information and belief the defendants currently fail to provide  
28 wheelchair accessible door hardware.

1 31. Finally, on the dates of the plaintiff's visits, the defendants failed to  
2 provide wheelchair accessible paths of travel in conformance with the ADA  
3 Standards as it relates to wheelchair users like the plaintiff.

4 32. Bulldog Lifestyles provides paths of travel to its customers but fails to  
5 provide wheelchair accessible paths of travel.

6 33. A problem that plaintiff encountered is that the paths of travel inside  
7 Bulldog Lifestyles were too narrow.

8 34. Plaintiff believes that there are other features of the paths of travel that  
9 likely fail to comply with the ADA Standards and seeks to have fully compliant  
10 paths of travel available for wheelchair users.

11 35. On information and belief the defendants currently fail to provide  
12 wheelchair accessible paths of travel.

13 36. These barriers relate to and impact the plaintiff's disability. Plaintiff  
14 personally encountered these barriers.

15 37. As a wheelchair user, the plaintiff benefits from and is entitled to use  
16 wheelchair accessible facilities. By failing to provide accessible facilities, the  
17 defendants denied the plaintiff full and equal access.

18 38. The failure to provide accessible facilities created difficulty and  
19 discomfort for the Plaintiff.

20 39. The defendants have failed to maintain in working and useable  
21 conditions those features required to provide ready access to persons with  
22 disabilities.

23 40. The barriers identified above are easily removed without much  
24 difficulty or expense. They are the types of barriers identified by the  
25 Department of Justice as presumably readily achievable to remove and, in fact,  
26 these barriers are readily achievable to remove. Moreover, there are numerous  
27 alternative accommodations that could be made to provide a greater level of  
28 access if complete removal were not achievable.

41. Plaintiff will return to Bulldog Lifestyles and Earl's Liquor to avail himself of their goods or services and to determine compliance with the disability access laws once it is represented to him that Bulldog Lifestyles and Earl's Liquor and their facilities are accessible. Plaintiff is currently deterred from doing so because of his knowledge of the existing barriers and his uncertainty about the existence of yet other barriers on the site. If the barriers are not removed, the plaintiff will face unlawful and discriminatory barriers again.

42. Given the obvious and blatant nature of the barriers and violations alleged herein, the plaintiff alleges, on information and belief, that there are other violations and barriers on the site that relate to his disability. Plaintiff will amend the complaint, to provide proper notice regarding the scope of this lawsuit, once he conducts a site inspection. However, please be on notice that the plaintiff seeks to have all barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site, he can sue to have all barriers that relate to his disability removed regardless of whether he personally encountered them).

**I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all Defendants.) (42 U.S.C. section 12101, et seq.)

43. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

44. Under the ADA, it is an act of discrimination to fail to ensure that the privileges, advantages, accommodations, facilities, goods and services of any place of public accommodation is offered on a full and equal basis by anyone who owns, leases, or operates a place of public accommodation. See 42 U.S.C.

1 § 12182(a). Discrimination is defined, inter alia, as follows:

- 2 a. A failure to make reasonable modifications in policies, practices,  
3 or procedures, when such modifications are necessary to afford  
4 goods, services, facilities, privileges, advantages, or  
5 accommodations to individuals with disabilities, unless the  
6 accommodation would work a fundamental alteration of those  
7 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 8 b. A failure to remove architectural barriers where such removal is  
9 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
10 defined by reference to the ADA Standards.
- 11 c. A failure to make alterations in such a manner that, to the  
12 maximum extent feasible, the altered portions of the facility are  
13 readily accessible to and usable by individuals with disabilities,  
14 including individuals who use wheelchairs or to ensure that, to the  
15 maximum extent feasible, the path of travel to the altered area and  
16 the bathrooms, telephones, and drinking fountains serving the  
17 altered area, are readily accessible to and usable by individuals  
18 with disabilities. 42 U.S.C. § 12183(a)(2).

19 45. When a business provides parking for its customers, it must provide  
20 accessible parking.

21 46. Here, accessible parking has not been provided in conformance with the  
22 ADA Standards.

23 47. When a business provides facilities such as sales or transaction counters,  
24 it must provide accessible sales or transaction counters.

25 48. Here, accessible sales or transaction counters have not been provided in  
26 conformance with the ADA Standards.

27 49. When a business provides facilities such as door hardware, it must  
28 provide accessible door hardware.

1       50. Here, accessible door hardware at Earl's Liquor has not been provided  
2 in conformance with the ADA Standards.

3       51. When a business provides paths of travel, it must provide accessible  
4 paths of travel.

5       52. Here, accessible paths of travel at Bulldog Lifestyles have not been  
6 provided in conformance with the ADA Standards.

7       53. The Safe Harbor provisions of the 2010 Standards are not applicable  
8 here because the conditions challenged in this lawsuit do not comply with the  
9 1991 Standards.

10       54. A public accommodation must maintain in operable working condition  
11 those features of its facilities and equipment that are required to be readily  
12 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

13       55. Here, the failure to ensure that the accessible facilities were available  
14 and ready to be used by the plaintiff is a violation of the law.

15  
16       **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
17 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
18 Code § 51-53.)

19       56. Plaintiff repleads and incorporates by reference, as if fully set forth  
20 again herein, the allegations contained in all prior paragraphs of this  
21 complaint. The Unruh Civil Rights Act ("Unruh Act") guarantees, inter alia,  
22 that persons with disabilities are entitled to full and equal accommodations,  
23 advantages, facilities, privileges, or services in all business establishment of  
24 every kind whatsoever within the jurisdiction of the State of California. Cal.  
25 Civ. Code § 51(b).

26       57. The Unruh Act provides that a violation of the ADA is a violation of the  
27 Unruh Act. Cal. Civ. Code, § 51(f).

28       58. Defendants' acts and omissions, as herein alleged, have violated the



Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff's rights to full and equal use of the accommodations, advantages, facilities, privileges, or services offered.

59. Because the violation of the Unruh Civil Rights Act resulted in difficulty, discomfort or embarrassment for the plaintiff, the defendants are also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-(c).)

60. Although the plaintiff encountered frustration and difficulty by facing discriminatory barriers, even manifesting itself with minor and fleeting physical symptoms, the plaintiff does not value this very modest physical personal injury greater than the amount of the statutory damages.

**PRAYER:**

Wherefore, Plaintiff prays that this Court award damages and provide relief as follows:

1. For injunctive relief, compelling Defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

2. Damages under the Unruh Civil Rights Act, which provides for actual damages and a statutory minimum of \$4,000 for each offense.

3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

Dated: November 16, 2020      CENTER FOR DISABILITY ACCESS

By: 

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Attorney for plaintiff